



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648-BL43

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Amendment 22 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of proposed fishery management plan amendment; request for comments.

SUMMARY: The Mid-Atlantic Fishery Management Council has submitted Amendment 22 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan to NMFS. Amendment 22 proposes revisions to the summer flounder, scup, and black sea bass commercial and recreational allocation percentages. This action would also add the option for future modifications to the commercial/recreational allocation and transfer provisions to be considered through a framework action. Amendment 22 is intended to address the allocation-related impacts of the revised recreational catch and landings data provided by the Marine Recreational Information Program.

DATES: Public comments must be received on or before *[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2022-0079, by the following method:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-

2022-0079 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Copies of Amendment 22, including the Environmental Assessment, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared in support of this action are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. The supporting documents are also accessible via the Internet at: <https://www.mafmc.org/actions/sfsbsb-allocation-amendment>.

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Policy Analyst, (978) 281-9116, or email: Emily.Keiley@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act requires that each Regional Fishery Management Council transmit any amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment and associated regulations deemed necessary by the Council to implement the amendment, immediately publish notification in the **Federal Register** that the amendment is available for public review and comment. The Mid-Atlantic Fishery Management Council transmitted its final version of Amendment 22 to the Summer

Flounder, Scup, and Black Sea Bass Fishery Management Plan to NMFS for review on June 24, 2022. On July 19, 2022, the Council submitted Amendment 22 proposed rule regulations they deemed to be necessary and appropriate as specified in section 303(c) of the Magnuson-Stevens Act.

Background

The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) cooperatively manage the summer flounder, scup, and black sea bass fisheries. The Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) outlines the allocation of quota, for each species, between the commercial and recreational fisheries. This joint amendment reevaluates and proposes to revise the commercial and recreational sector allocations in the Summer Flounder, Scup, and Black Sea Bass FMP. This action was initiated in part to address the allocation-related impacts of the revised recreational catch and landings data provided by the Marine Recreational Information Program (MRIP). Specifically, this amendment considers:

1. Modifying the current allocations between the commercial and recreational sectors for summer flounder, scup, and black sea bass;
2. Adding an option to transfer a portion of the allowable landings each year between the commercial and recreational sectors, in either direction, based on the needs of each sector; and
3. Adding the option for future additional modifications to the commercial/recreational allocation and/or transfer provisions to be considered through an FMP addendum/framework action, as opposed to an amendment.

Proposed Commercial/Recreational Allocations

Amendment 22 would change the commercial and recreational allocations for summer flounder, scup, and black sea bass. The current commercial and recreational

allocations for all three species were set in the mid-1990s based on historical proportions of landings (for summer flounder and black sea bass) and catch (for scup) from each sector. Recent changes in how recreational catch is estimated by MRIP resulted in a revised time series of recreational data going back to the 1980s. This created a mismatch between the data that were used to set the allocations and the data currently used in management for setting catch limits. Changes to commercial catch data have also been made since the allocations were established. The allocation changes proposed in this amendment seek to ensure that the best available data is used to determine commercial and recreational sector allocations.

Amendment 22 includes a range of allocation alternatives, with options that would have maintained the current allocations and a variety of options to revise the allocations based on updated data using the same or modified “base years” (the time periods used to set the current allocations). The Council and Board ultimately voted to revise the allocations using the original base years updated with new data. This approach allows for consideration of fishery characteristics in years prior to influence by the commercial/recreational allocations, while also using the best scientific information available to understand the fisheries in those base years.

For all three species, these changes result in a shift in allocation from the commercial to the recreational sector. However, because the summer flounder and black sea bass fisheries will be transitioning from landings-based to catch-based allocations, the current and revised allocations for those species are not directly comparable. The proposed commercial and recreational sector allocations are shown in Table 1.

Table 1 -- Proposed commercial/recreational allocations

Species	Commercial Allocation Percentage (Percent)	Recreational Allocation Percentage (Percent)
Summer Flounder	55	45
Scup	65	35

Black Sea Bass	45	55
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The Council and Board considered, but did not recommend, an option to “phase in” the allocation changes over a period of time. A phase-in period was deemed unnecessary given the relatively small magnitude of allocation changes.

Revised Framework Provisions

The Council and Board also approved an option to allow future changes to commercial/recreational allocations, annual quota transfers, and other measures addressed in the amendment to be made through framework actions.

They also considered, but did not recommend, an option to allow transfers of annual quota between the commercial and recreational sectors at this time.

Public Comment Instructions

The Magnuson-Stevens Fishery Conservation and Management Act allows us to approve, partially approve, or disapprove measures recommended by the Council in an amendment based on whether the measures are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. As such, we are seeking comment on whether measures in the Commercial/Recreational Allocation Amendment are consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law. Public comments on this amendment and its incorporated documents may be submitted through the end of the comment period stated in this notification of availability.

A proposed rule to implement the amendment, including draft regulatory text, will also be published in the **Federal Register** for public comment. Public comments on the proposed rule received before the end of the comment period provided in this notification of availability will be considered in the approval/disapproval decision on the amendment. All comments received by *[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION]*

*IN THE **FEDERAL REGISTER***], whether specifically directed to the Commercial/Recreational Allocation Amendment or the proposed rule for this amendment, will be considered in the approval/disapproval decision on the Commercial/Recreational Allocation Amendment.

Comments received after that date will not be considered in the decision to approve or disapprove the amendment.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 8, 2022.

Kelly Denit,

Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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